

unsaturated bond selected from methacrylic acid, acrylic acid, methyl methacrylate, methyl acrylate, 2-hydroxyethyl methacrylate, acrylonitrile, vinyl acetate, styrene, acrylamide and vinylpyrrolidone, said modified natural rubber having a graft ratio of from 26.5% to 36.7% and epoxidation ratio of from 26.0% to 30.2%.

REMARKS

Upon entry of the Amendment, claims 1-3 are pending in the present application. Support for the range of graft efficiency recited in claim 1 can be found at page 20, Example 3 and page 25, Example 7. Support for the range of epoxidation ratio in claim 1 can be found at page 22, Example 6 and Example 4. It is well settled in U.S. patent law that ranges can be created by the Examples. See In re Wertheim, 191 USPQ90 (CCPA 1976) and In re Blaser, 194 USPQ122 (CCPA 1977). Thus, the amendments to claim 1 are supported under 35 U.S.C. § 112, first paragraph and entry thereof is earnestly solicited.

Rejection under 35 U.S.C. § 103

Claims 1-4 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kondo et al. taken with Tanaka et al. The rejection is traversed.

The Examiner urges that Applicant's arguments with respect to Kondo are not relevant because the improvements are not presented

in the claims. Claim 1 has now been amended to recite the improved graft efficiency and epoxidation ratio and thus it is requested that the Examiner reconsider his position.

Kondo et al. are directed to obtaining a uniformly granular polymer by adding a suspension stabilizer at the specific time of grafting an ethylenic monomer to the rubber polymer latex. Kondo et al. are totally silent with respect to a polymer having improved graft ratio of the natural rubber as claimed.

Tanaka et al. does not make up for this deficiency of the primary reference. In order to combine references there must be a suggestion to do so. The primary reference fails to provide the motivation. See ACS Hospital Systems vs Montefiore Hospital, 732 F.2d 1572, 221 F.2d 1572, 221 USPQ929 (Fed. Cir. 1984).

Accordingly, the rejection is untenable and should be withdrawn.

Rejection under 35 U.S.C. § 112, second paragraph

Claim 4 stands rejected under 35 U.S.C. § 112, second paragraph. The rejection is traversed. Reconsideration and withdrawal of the rejection is earnestly solicited.

While Applicants do not understand the reasoning of the Examiner for maintaining the rejection, claim 4 has been canceled. The objected to terminology is in a dependent claim and thus does not have a bearing on the patentability of the independent claim, and accordingly to facilitate allowance this claim has been

canceled. Having address the outstanding rejections claims 1-3 are patentable. A Notice of Allowance is earnestly solicited.

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of the claims of the present application are respectfully requested. In the event that the Amendment does not place the present application into condition for allowance, entry thereof is respectfully requested as placing the present application into better condition for appeal.

In the event there are any additional matters remaining in this application, the Examiner is strongly encouraged to contact the undersigned at (703) 205-8000 in order to discuss these matters.

Please charge any fees or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Deposit Account No. 02-2448.

Respectfully submitted,

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